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                   IN THE UNITED STATES DISTRICT COURT
 2
                    FOR THE NORTHERN DISTRICT OF TEXAS
 3
                            FORT WORTH DIVISION
 4
     UNITED STATES OF AMERICA,
                                   ) CASE NO. 4:22-CR-036-Y
 5
                Government,
                                   ) FORT WORTH, TEXAS
 6
     VERSUS
                                   ) AUGUST 9, 2022
7
     JOSEPH MICHAEL DUPREE,
8
                Defendant.
                                   ) 2:29 P.M.
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                               VOLUME 1 OF 1
                         TRANSCRIPT OF SENTENCING
11
                   BEFORE THE HONORABLE TERRY R. MEANS
                   UNITED STATES DISTRICT COURT JUDGE
12
13
     APPEARANCES:
14
     FOR THE GOVERNMENT:
                              MR. P.J. MEITL
                              UNITED STATES DEPARTMENT OF JUSTICE
15
                              NORTHERN DISTRICT OF TEXAS
                              801 Cherry Street, Suite 1700
16
                              Fort Worth, Texas 76102-6882
                              Telephone: 817.252.5200
17
     FOR THE DEFENDANT:
                              MS. LOUI ITOH
18
                              ASSISTANT FEDERAL PUBLIC DEFENDER
                              NORTHERN DISTRICT OF TEXAS
19
                              819 Taylor Street, Room 9A10
                              Fort Worth, Texas 76102
20
                              Telephone: 817.978.2753
21
     COURT REPORTER:
                              MS. DEBRA G. SAENZ, CSR, RMR, CRR
                              501 W. 10th Street, Room 507
22
                              Fort Worth, Texas 76102
                              Telephone: 817.850.6661
23
                              E-Mail: debbie.saenz@yahoo.com
24
     Proceedings reported by mechanical stenography, transcript
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1	PROCEEDINGS			
2	August 9, 2022 - 2:29 p.m.			
3	(Various participants wearing masks)			
4	THE COURT: Next before the Court is the sentencing			
5	of Joseph Michael Dupree, Cause Number 4:22-CR-036-Y, United			
6	States of America versus Joseph Michael Dupree.			
7	Are the parties ready to proceed?			
8	MR. MEITL: Yes, Your Honor. P.J. Meitl for the			
9	government.			
10	MS. ITOH: Good afternoon, Your Honor. Loui Itoh on			
11	behalf of Mr. Dupree. We're also ready.			
12	THE COURT: Thank you, ma'am.			
13	Mr. Dupree, please acknowledge your presence in			
14	court for the record by stating your full name.			
15	THE DEFENDANT: Joseph Michael Dupree.			
16	THE COURT: Mr. Dupree, you appeared before			
17	Magistrate Judge Jeffrey Cureton on March 23, 2022, at which			
18	time you entered a plea of guilty to Count 1 of the			
19	superseding information charging you with possession of a			
20	stolen firearm, in violation of 18 United States Code Sections			
21	922(j) and 924(a)(2).			
22	On that date, Judge Cureton found that your plea of			
23	guilty was a knowing and voluntary plea supported by an			
24	independent basis in fact containing each of the essential			
25	elements of the offense.			

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You told him at that time that you understood the elements of the offense, agreed to the accuracy of the factual resume, and admitted that you committed all essential elements of the offense. Accordingly, on April 7, 2022, I entered an order accepting your plea and adjudging you guilty of the crime alleged in the superseding information against you. This plea of guilty was taken pursuant to a plea I've reviewed that plea agreement and the charge agreement. to which you have pled guilty, and I have determined that that charge does adequately reflect the seriousness of your actual offense behavior so that accepting the plea agreement will not undermine the statutory purposes of sentencing. Also, all relevant conduct has been taken into consideration in the calculation of the total offense level. Therefore, the plea agreement is accepted, and the judgment and sentence will be consistent with it. Ms. Itoh, did you and your client receive in a timely manner a copy of the presentence report and the addendum to the report? MS. ITOH: We have, Your Honor. We've reviewed both, and we agree with the addendum. THE COURT: All right. Thank you. And has the government received that timely? MR. MEITL: Yes, Your Honor.

THE COURT: There being no objections to the fact 1 2 findings in the presentence report and its addendum, I adopt 3 those findings as my own. 4 And there being no objections to the probation 5 officer's conclusions set forth in the presentence report as 6 to the appropriate guideline calculations, I adopt those 7 conclusions and determine that the appropriate guideline 8 calculations are: 9 Total offense level 25; Criminal History Category 10 VI; imprisonment range 110 to 120 months; supervised release 11 range 1 to 3 years; and a fine range of 20,000 to \$200,000; 12 plus the costs of imprisonment and supervision. 13 I've received several letters on behalf of the 14 defendant. I did read those, and I suspect you have something further to add. 15 16 MS. ITOH: Yes, Your Honor. 17 THE COURT: Go ahead. 18 MS. ITOH: Thank you. 19 Your Honor, many defendants who come before this 20 Court have had difficult childhoods, but I think the hurt, the 21 pain, and the emotional abuse that Mr. Dupree went through is 22 unusual. He doesn't know anything about his biological 23 parents, other than that they did not want him. 24 He was adopted into an abusive family. They were 25 told that they couldn't have any children of their own, but

shortly after adopting Mr. Dupree, they had two babies. The father left the mother. He decided it was too much, and then the mother was trying to care for three babies on her own.

She was working, but she struggled to make ends meet.

As a child, Mr. Dupree lived in hotels and trailer parks that weren't safe. He remembers going to bed hungry as his family often did not have enough to eat.

But I think what's really unusual about his childhood is the degree to which his adoptive mother resented him and blamed him for her poverty. She slapped him, she punched him, she threw pots and pans at him, but even worse was the emotional abuse. His adopted family was white.

Mr. Dupree is African-American, and his mother used the N word against him as a racial slur. His younger brother, not knowing any better, adopted the practice.

So, that was the situation that Mr. Dupree grew up in, and so when he was 17, he left home. He didn't look back, and his last contact with his mother was in 2010 when his brother was killed in a motorcycle accident. She wrote to Mr. Dupree and told him that she wished he had died instead.

And so Mr. Dupree has emotional scars. He felt unloved and unwanted by two sets of parents. And so, at the age of 12, he started using marijuana and methamphetamine. He became addicted. Perhaps he relied on drugs to fill that hole in his heart from just feeling unloved as a child.

Mr. Dupree has a criminal history, but we submit that criminal history is reflective of his addiction. He's determined to overcome his addiction, and he asks the Court to recommend his admission into the RDAP program.

Now, despite not having a single loving parent during his childhood, Mr. Dupree has stepped up to being a father to his -- he's common-law married to Brook Cluberhouse, who is in court supporting him today. So he stepped up to being a father to her two sons, who are not his biological children.

In addition, there's another child. It's a little unclear as to whether it's actually Mr. Dupree's child as the child has blond hair and blue eyes, but nevertheless, Mr. Dupree has provided financially for that child, and he wants to be present in his life.

Prior to his arrest, Mr. Dupree worked for a building sterilizing company, and he's an extremely talented artist. We've attached one of his drawings along with the letters submitted to the Court.

THE COURT: I saw that.

MS. ITOH: He's actually teaching a class for other inmates at FMC Fort Worth, and he's earned his GED. He's taken two-and-a-half years of college classes, and he plans to continue his art education. He wants to continue teaching others, and he wants to work as a tattoo artist when he's

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released.
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                So, for all those reasons, Your Honor, we're asking
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     for the low end of his guidelines range. We're asking for
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     RDAP. We're asking for placement in Fort Worth, or as close
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     to Fort Worth as possible, so he can see his family.
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                And with the Court's permission, he has some family
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     members that would like to address the Court.
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                THE COURT: All right. Bring them forward.
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                MS. ITOH: All right. We would like to call Penny
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     Martin, who is a close family friend.
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                THE COURT: You may be seated, sir.
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                THE DEFENDANT: Thank you.
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                THE COURT: Good afternoon, Ms. Martin. What did
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     you want to say to the Court?
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                MS. PENNY MARTIN: Good afternoon. As she was
16
     saying, you know, Joseph started out on a rough patch with
17
     parents that didn't care, didn't want, abusive. For the last
18
     almost 12 years now, for all intents and purposes, I've tried
19
     to stand up and show him what being part of a family is about
20
     and being the best mom to him that I could be. I'm not his
21
     mother or --
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                THE COURT: I understand.
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                MS. PENNY MARTIN: -- but for all intents and
24
     purposes, I have been.
25
                THE COURT:
                            Okay.
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MS. PENNY MARTIN: He does -- he got mixed up with the wrong crowd because of his drug addiction, but that's just because, I feel, that he was searching just to be accepted, to be wanted, to be loved. I've tried my best to give him all the love that I can and support that I can. He does have a young son that's less than a year old right now that needs him, the one they were talking about that's in question. He loves that baby and that baby loves him. I saw that with my own eyes because I'm the one that picked the baby up from the hospital when he was two days old, and he needs that baby and that baby needs him. He is an amazing artist. She's right on that. Τ have several portraits of myself that he drew just from pictures that he had taken that I had sent him. Outstanding work. He's highly intelligent. He is a leader. People follow him. And I think if he gets help with his addiction and he goes to this program, I think there's nothing that will stop him moving forward and putting all of this behind him. THE COURT: All right. Thank you. MS. PENNY MARTIN: Thank you. Now we would like to call Brook MS. ITOH: Cluberhouse, his common-law wife. THE COURT: Okay. Go ahead. Thank you. MS. BROOK CLUBERHOUSE: Hi. I'm Brook Cluberhouse,

and I am not very good at speaking in public, so I wrote this down.

THE COURT: That's fine. Just don't go so fast we can't keep up with you and get what you say in the court record.

MS. BROOK CLUBERHOUSE: Okay. Joseph is one of the type people you'll never forget. He's funny, genuine, and loyal. Despite all the hardships he faced being adopted into an abusive family, he has become the glue to his family he created today -- or glue to the family he created today.

He's my friend of 10 years, and the love of my life. He's a wonderful father, and we have two beautiful boys who he plans on fully adopting. Both our sons were diagnosed with the Autism around the age of one, and he has been so patient with them and always making them giggle.

Joseph is a talented guitar player, and if our son,

Jace, could, he would just sit in front of him and watch him

play for days. Our eldest son loves to jump on the trampoline

with him and play in the sprinkler. He's been very productive

in their lives, and they adore him.

He has been -- he is a self-sacrificing person and missed everyday by his family. We have a goal one day of owning our own graphic design business, and he is one of the most talented artists I think I've ever seen. He's not only missed everyday, but he's needed by everyone who loves him.

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In the past, he's lacked a good support system and stable living situation. He now has not only that, but two jobs available to him as soon as he gets home with reliable transportation. He's been there for my mother and my kids more than I could say. He's helped my grandmother and mother financially and would give the world -- give us the world if he could. He's never took -- and he would give anyone the shirt off his back. He honestly is one of the biggest blessings to ever enter mine and my family's life. THE COURT: Thank you. MS. ITOH: And, Your Honor, Mr. Dupree would like to address the Court. THE COURT: All right. Please step forward. THE DEFENDANT: Thank you, sir. Sir, I would like to apologize to the courts today for my actions, and I'm here to accept my consequences for I thought I used to know what consequences were, but now that I see that I have a family, I actually truly understand what consequences might be, and consequences just don't effect you, but they effect the people that care about you. I got three kids that need me, two of them Autism and need a father, one growing up, and I -- I don't know how,

a wife who needs me. She's at home all by herself trying to

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take care of everything; a mother that needs me. I never knew
what it was to have people until recently, and I know I
botched -- I know I botched being new to it so quickly, but I
think I have a firmer understanding of what it means to now.
          I have some ideas in place. I'm trying to work on
myself, so I can have the means and the necessary ends to do
so while I'm at FMC, work on my artwork, work on my plans so I
can do a future.
          I'm 38. Today is my anniversary, and I'm sitting
here looking at it and this is what I'm giving to my family,
you know, for my wife for an anniversary present. I got
Christmases I'm thinking about. I know that I can't do this
again.
          THE COURT: All right, sir.
                          Thank you.
          THE DEFENDANT:
          THE COURT:
                      Thank you.
          Does the government wish to be heard?
          MR. MEITL: Your Honor, only to discuss the fact
that he received a benefit through the charge, which capped
him at 10 years, which brought it down from 137 months at the
top end of the guidelines down to 120 months.
          Of course, his criminal history is pretty extreme.
For the last 10 years, he's been in and out of prison with an
escalating amount of prison time. He went from 2 years to 5
years, and now he's facing this, so it doesn't appear
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deterrence has worked very well with this defendant. 1 2 THE COURT: All right. Thank you. I'll now state the sentence determined after 3 consideration of all of the factors set out in Title 18 United 4 5 States Code Section 3553, including especially the advisory 6 sentencing quidelines issued by the sentencing commission and 7 the conduct admitted by Mr. Dupree in his factual resume. 8 attorneys will have a final chance to make legal objections 9 before sentence is finally imposed. 10 It is the judgment of the Court that the defendant, 11 Joseph Michael Dupree, in Case Number 4:22-CR-036-Y, be 12 committed to the custody of the Federal Bureau of Prisons for 13 a period of 110 months. 14 I recommend that he be enrolled in the comprehensive 15 drug treatment program offered by the Bureau of Prisons. 16 The Court does not order a fine or costs of 17 incarceration because Mr. Dupree does not have the financial 18 resources or future earning capacity to pay a fine or costs of 19 incarceration. 20 Restitution is not ordered because there is no 21 victim other than society at large. 22 Upon release from imprisonment, Mr. Dupree shall be 23 on supervised release for a term of 3 years. While on 24 supervised release, he shall comply with the standard 25 conditions recommended by the United States Sentencing

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Commission at Section 5D1.3(c) of the U.S. Sentencing Commission Guidelines Manual, and comply with certain other conditions that have been set out in a separate order signed by me this day and offered to Mr. Dupree for his review and signature. He has now returned that order to me, with his signature, indicating his receipt of those other conditions, his understanding of them, his waiver of having them read here in open court, and his agreement to be bound by them and subject to revocation for any violation of them -- and he does waive the reading of them in open court. In addition, he's ordered to pay a mandatory special assessment of \$100. A sentence of 110 months is sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph 2 of Section 3553(a), that is, reflect the seriousness of and provide just punishment for the offense,

promote respect for the law, afford adequate deterrence to criminal conduct, and protect the public from further crimes of the defendant.

I have now stated the sentence and the reasons therefor. I call upon the parties to indicate any legal reason why sentence may not be imposed as stated.

MR. MEITL: Nothing from the government, Your Honor.

MS. ITOH: Nothing, Your Honor.

1 THE COURT: Sentence is then imposed as stated. 2 Mr. Dupree, you have the -- you have waived -- let's 3 see. 4 Does the government have a motion? 5 MR. MEITL: Yes, Your Honor. We move to dismiss the 6 indictment. 7 The indictment is dismissed. THE COURT: 8 Mr. Dupree, you have the right to appeal the 9 sentence that has been imposed and to -- pardon me, you have 10 waived your right -- let me back up. 11 You have waived your right to appeal your sentence 12 and to complain of it in a collateral proceeding; however, you 13 have reserved from those waivers and you do retain the right 14 to complain of any errors in arithmetic that I may have made 15 in the calculation of your total offense level or your 16 criminal history category, also the right to challenge the voluntariness of your plea of guilty and/or your waiver of 17 18 appellate rights, and the right to complain of any ineffective 19 assistance of counsel. 20 If you decide to appeal on any ground, you do have 21 the right to apply for leave to appeal in forma pauperis, if 22 you are unable to pay the costs of an appeal. 23 I have before me an instrument entitled Notice of 24 Right to Appeal Sentence that you have signed and returned to 25 the Court. Please understand that this is the Court's notice

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to you that you have the right to appeal. It is not your
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     notice to the Court that you are, in fact, appealing.
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                And if you wish to appeal, you must do so within 14
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     days, in writing, filed with the court, and Ms. Itoh will
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     assist you in that if you ask her to.
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                Do you have any questions, sir?
                THE DEFENDANT: No. sir.
8
                THE COURT: You are remanded to the custody of the
9
     United States Marshal. Good luck to you, sir.
10
                          May I be excused, Your Honor?
                MS. ITOH:
11
                THE COURT: Yes, ma'am.
                                         Thank you.
12
                            May I, Your Honor?
                MR. MEITL:
13
                THE COURT: Yes, sir.
                                       Thank you.
14
                (End of Proceedings)
                          REPORTER'S CERTIFICATE
15
           I, Debra G. Saenz, CSR, RMR, CRR, certify that the
     foregoing is a true and correct transcript from the record
16
     of proceedings in the foregoing entitled matter.
           Further, due to the COVID-19 pandemic, various
     participants wore masks or were heard via videoconference,
17
     so proceedings were transcribed to the best of my ability.
18
           I further certify that the transcript fees format
     comply with those prescribed by the Court and the Judicial
19
     Conference of the United States.
           Signed this 24th day of October, 2022.
20
                                /s/ Debra G. Saenz
21
                                DEBRA G. SAENZ, CSR, RMR, CRR
                                Texas CSR No. 3158, Exp. 1/31/2024
22
                                Official Court Reporter
                                The Northern District of Texas
                                Fort Worth Division
23
     Business Address:
                          501 W. 10th Street, Room 507
24
                          Fort Worth, Texas 76102
                          817.850.6661
     Telephone:
25
     E-Mail Address:
                          debbie.saenz@yahoo.com
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